



Senate

General Assembly

File No. 484

January Session, 2005

Substitute Senate Bill No. 1148

Senate, April 21, 2005

The Committee on Government Administration and Elections reported through SEN. DEFRONZO of the 6th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

AN ACT CONCERNING THE PROCUREMENT OF MERCHANDISE AND LAUNDRY SERVICES AND THE SALE OF STATE LICENSED MERCHANDISE.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

- 1 Section 1. (NEW) (*Effective from passage*) (a) As used in this section:
- 2 (1) "Contractor" includes any subcontractor or supplier of a
3 contractor;
- 4 (2) "Production" means the manufacture of merchandise, including,
5 the cutting and assembly by weaving, sewing, knitting or felting and
6 finishing, of such merchandise and warehouse distribution and
7 laundering, where applicable;
- 8 (3) "Nonpoverty wage" means, in the United States, the level of
9 wages required for a full-time worker to produce an annual income
10 not less than one hundred ten per cent of the United States Department

11 of Health and Human Services' most recent poverty threshold for a
12 family of four, plus an additional twenty per cent of such wage level
13 paid either as hourly wages or health benefits and means, in any
14 country outside the United States, a comparable wage and benefit
15 level, adjusted to reflect such country's level of economic development
16 using a factor such as the relative national standard of living index in
17 order to raise a family of three out of poverty, or the World Bank's
18 Gross National Income per capita Purchasing Power Index;

19 (4) "Merchandise" means uniforms, garments and corresponding
20 accessories for the state of Connecticut and the state system of higher
21 education; and

22 (5) "Procures" means contracted for, purchased, rented, leased or
23 obtained by an allowance or voucher program merchandise or
24 services.

25 (b) The state shall adopt a Sweatfree Code of Conduct, meaning that
26 no merchandise shall be procured or licensed by the state or by a
27 constituent unit of the state system of higher education, and no
28 laundry services shall be procured by the state or by a constituent unit
29 of the state system of higher education, unless such merchandise or
30 laundry services are procured from contractors that act as, or contract
31 with, business establishments that have or demonstrate all of the
32 following:

33 (1) Compliance with all applicable local laws and workplace
34 regulations, including those regarding wages and benefits, workplace
35 health and safety, environmental safety, and freedom of association,
36 and the fundamental conventions of international law, including those
37 regarding forced and child labor and freedom of association;

38 (2) Payment of wages that meet the highest of (A) the legal
39 minimum wage; (B) the prevailing wage in the industry in the country
40 of production or where laundry services occur; or (C) a nonpoverty
41 wage;

42 (3) Maintenance of verifiable wage and hour records for each
43 worker, documenting the number of hours worked in a pay period, the
44 wage rate, the deductions and the actual pay, provided an itemized
45 wage statement with this information is provided to workers;

46 (4) Required working hours for hourly and quota-based employees
47 that are the lesser of forty-eight hours per week or any other limit on
48 regular hours allowed by the law of the country of manufacture or
49 where laundry services occur, provided (A) there is not less than one
50 day off in every seven-day period, (B) there are holidays and
51 vacations, and (C) all overtime hours are worked voluntarily;

52 (5) Policies against discrimination in employment on the basis of
53 gender, race, religion, age, disability, sexual orientation, nationality,
54 political opinion or social or ethnic origin with regard to hiring, salary,
55 benefits, advancement, discipline, termination and retirement;

56 (6) Policies against sexual, psychological or verbal harassment,
57 abuse or corporal punishment;

58 (7) Policies against forced use of contraceptives or forced pregnancy
59 tests;

60 (8) Policies against termination of employees without just cause and
61 a mediation or grievance process to resolve workplace disputes
62 provided, for establishments in the United States, such disputes are
63 limited to those not regulated by the National Labor Relations Board;
64 and

65 (9) Respect for employees' rights to freedom of association and
66 collective bargaining and no harassment, intimidation or retaliation
67 against employees for exercising such rights.

68 (c) If the state or a constituent unit of the state system of higher
69 education determines that the timely and high-quality performance of
70 laundry services is likely to be adversely affected by labor-
71 management conflict, the state or constituent unit of the state system of

72 higher education shall require contractors for procurement of laundry
73 services to enter into written agreements, enforceable under the Labor
74 Management Relations Act, 29 USC 185, as amended from time to
75 time, with labor organizations representing or actively seeking to
76 represent laundry employees. Such agreements shall contain
77 provisions to ensure the timely and high-quality performance of
78 laundry services, including, but not limited to, provisions prohibiting
79 the organizations and their members from engaging in strikes,
80 picketing or other conduct that would tend to disrupt the performance
81 of services, provided nothing in this section requires an employer to
82 recognize a particular labor organization or to enter into a collective
83 bargaining agreement establishing the substantive terms and
84 conditions of employment.

85 (d) For every (1) bid that is in excess of five thousand dollars, and
86 (2) contract that (A) is in excess of five thousand dollars, or (B) taken
87 together with other contracts with the same contractor results in an
88 excess of five thousand dollars paid or payable to such contractor for
89 production of merchandise or for laundry services, each bidder or
90 contractor shall submit an affidavit to the contracting state agency or
91 constituent unit of the state system of higher education. Such affidavit
92 shall include: (i) The names, addresses and telephone numbers of each
93 facility involved in the production of merchandise or the provision of
94 services governed by this section, (ii) the names, business addresses
95 and telephone numbers of the principal officers of each facility
96 involved in the production of merchandise or the provision of laundry
97 services governed by this section, (iii) the base hourly wage of
98 nonsupervisory employees, the percentage of the wage level paid as
99 health benefit, other benefits, regular deductions from paychecks,
100 normal working hours per day and week, actual working hours per
101 day and week over the last three months and any overtime policy, (iv)
102 a sworn statement that each of the proposed merchandise production
103 or laundry facilities, including any subcontractors, meets the
104 requirements of subsections (b) and (c) of this section, (v) any other
105 information deemed necessary by the state agency or constituent unit
106 of the state system of higher education for the administration and

107 enforcement of this section. To ensure public access and confidence,
108 such information shall be accessible to the public through the web site
109 of the state agency or constituent unit as soon as possible, but in no
110 case less than fourteen days before a decision is made to award a
111 contract to a particular bidder. If any information provided by a
112 contractor or subcontractor pursuant to this subsection changes during
113 the period of the contract, the contractor shall submit or cause to be
114 submitted to the state agency or constituent unit of the state system of
115 higher education an affidavit with the updated information. In
116 addition, the contractor shall submit or cause to be submitted annual
117 public reports documenting internal working condition monitoring
118 programs and their results, external audits if available, problems
119 discovered and corrective action plans.

120 (e) In order to facilitate compliance with this section, the
121 Commissioner of Administrative Services and each constituent unit of
122 the state system of higher education shall contract with a competent
123 nonprofit independent monitoring organization that is neither funded
124 nor controlled, in whole or in part, by a corporation that is engaged in
125 production or the provision of laundry services.

126 (f) (1) The Commissioner of Administrative Services shall establish a
127 volunteer Sweatfree Procurement Advisory Group to advise the
128 commissioner, state agencies and constituent units of the state system
129 of higher education in the implementation and enforcement of a
130 Sweatfree Code of Conduct. The advisory group shall meet as needed,
131 but at least quarterly, and shall consist of (A) advocates for garment
132 and other workers experiencing "sweatshop" working conditions, (B)
133 members of labor organizations representing state police officers,
134 correction officers or other state employees who wear uniforms while
135 on duty, (C) representatives of state agencies that employ uniformed
136 personnel, (D) administrators responsible for implementing this
137 section, and (E) other interested parties, as determined by the
138 commissioner.

139 (2) The advisory group shall: (A) Receive and assess evidence from

140 employees, labor organizations, governments, nongovernmental
141 organizations and human rights advocates of noncompliance with the
142 Sweatfree Code of Conduct by contractors bidding on or receiving
143 contracts under this section; (B) advise on bidding guidelines,
144 dissemination of information to employees and collaboration with
145 other entities; (C) advise on implementation of the Sweatfree Code of
146 Conduct in the procurement of merchandise and laundry services, and
147 explore expanding the code to state procurement of other products
148 and services; and (D) explore efficient and cost-effective mechanisms
149 for ensuring contractor compliance through consortiums with other
150 states, cities or public entities.

151 (3) Each constituent unit of the state system of higher education
152 shall establish a Sweatfree Procurement Advisory Group in accordance
153 with this subsection.

154 (g) If the state or a constituent unit of the state system of higher
155 education determines that a contractor has failed to meet the
156 requirements of subsection (b) of this section, the state or constituent
157 unit of the state system of higher education shall notify the contractor,
158 in writing, describing the failure and the requirements for responding
159 to such notice. The contractor shall respond in writing no later than ten
160 days after receipt of the notice providing either (1) evidence that the
161 contractor has met the requirements of subsection (b) of this section, or
162 (2) a detailed plan for correction of the described failure in a timely
163 manner, which plan shall include, but not be limited to, payment of
164 back wages to employees who supplied merchandise or laundry
165 services to the state or constituent unit of the state system of higher
166 education, reinstatement of employees unlawfully dismissed and
167 employee rights education for managers and employees. The
168 contractor and the state or constituent unit of the state system of higher
169 education shall develop a remediation plan to bring the contractor into
170 compliance with the requirements of subsection (b) of this section. An
171 independent audit shall be conducted, at the expense of the contractor,
172 to verify whether the failure described in the notice occurred and, if
173 such failure did occur, whether the remediation plan has corrected

174 such failure.

175 (h) If any contractor knowingly provides misinformation under
176 subsection (c) of this section or refuses to remedy, in a timely manner,
177 any failure to meet the requirements of this section, after written notice
178 of such failure, the state or constituent unit of the state system of
179 higher education may, without notice and without liability for any
180 unpaid amounts under the contract, terminate the contract, impose any
181 financial penalty permitted by law or under the contract and remove
182 such contractor from the list of qualified bidders for state contracts for
183 a period not to exceed three hundred sixty days.

184 (i) The provisions of this section may not be waived by agreement,
185 except by express waiver in a bona fide collective bargaining
186 agreement.

187 (j) The procurement requirements of this section shall be in addition
188 to any other applicable state law concerning procurement by the state
189 or a state agency.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	New section

LAB *Joint Favorable Subst. C/R* GAE

GAE *Joint Favorable Subst.*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 06 \$	FY 07 \$
Department of Administrative Services	GF - Cost	See Below	See Below
Constituent Units of Higher Education	Various - Cost	See Below	See Below
Constituent Units of Higher Education	Various - Revenue Loss	Potential Significant	Potential Significant

Note: GF=General Fund

Municipal Impact: None

Explanation

The bill requires the state and each of its constituent units of higher education to: adopt a sweat-free code of conduct; buy and license merchandise and procure laundry services only from contractors that agree to the sweat-free code of conduct; hire an independent nonprofit monitoring organization to monitor contractors; require laundry service contractors to enter into agreements with unions representing (or seeking to represent) their employees under certain conditions, and each establish a sweat-free procure advisory group (SPAG).

This bill will result in significant costs to the state and the constituent units of higher education. It is estimated that it will cost the state and its constituent units of higher education approximately \$50,000 - \$200,000 to hire a nonprofit independent monitoring organization to monitor contractors.

Authorizing the state or its constituent units of higher education to require laundry service contractors to enter into agreements with unions representing or seeking to represent their employees in order to ensure timely and quality laundry services may increase costs to the state if employee wages and benefits increase as a result of this

provision.

There are minimal costs to each constituent unit of higher education to establish SPAGs. DAS can establish a SPAG within available appropriations.

To the extent that revenues are generated through the sale of apparel and other merchandise by the constituent units of higher education this bill may result in a significant revenue loss to the units as current contracts may be voided or non-tendered resulting in less favorable contracts.

OLR Bill Analysis

sSB 1148

AN ACT CONCERNING THE PROCUREMENT OF MERCHANDISE AND LAUNDRY SERVICES AND THE SALE OF STATE LICENSED MERCHANDISE**SUMMARY:**

This bill establishes new standards for the state to buy and license merchandise, including uniforms, garments, and related accessories, and procure laundry services.

The state and each of its constituent units of higher education (UConn, the Connecticut State University system, and each of the community-technical colleges) must:

1. adopt a nine-point sweat-free code of conduct;
2. buy and license merchandise and procure laundry services only from contractors that meet all the wage, benefit, job protection, human rights, anti-discrimination, and other criteria established in the sweat-free code of conduct;
3. hire an independent monitoring organization to monitor contractors;
4. each establish a sweat-free procurement advisory group (SPAG) to provide input on the bill's implementation and enforcement; and
5. notify a contractor when it believes the contractor failed to meet the bill's requirements and describe the contractor's required response, which is either a plan for correcting the failure or evidence there was no failure.

To be eligible for a contract, a bidder must submit an affidavit with information about its facilities and a sworn statement that each of its merchandise production or laundry facilities meets the bill's requirements.

If the state notifies a contractor that it is not in compliance, the contractor must respond to the notice and pay for an audit to determine if it failed to meet the requirements and whether it corrected the situation. Under the bill, the state may cancel a contract, impose a penalty, and remove the contractor from the list of qualified bidders for 360 days, if the contractor knowingly provides misinformation or refuses to remedy a failure to meet one of the bill's requirements after written notification.

The bill authorizes the state and any of its colleges and universities to require laundry service contractors to enter into agreements with unions representing or seeking to represent their employees to ensure timely and quality laundry services.

EFFECTIVE DATE: Upon passage

SWEAT-FREE CODE OF CONDUCT

The bill requires the state to adopt the sweat-free code of conduct prohibiting the state and its colleges and universities from buying or licensing merchandise or buying laundry services unless they are provided by a contractor or subcontractor that agrees to meet certain standards in nine specific areas. Contractors must agree to:

1. comply with applicable local laws and regulations, including those regarding wages and benefits, workplace health and safety, environmental safety, and the fundamental conventions of international law, including those regarding forced and child labor and freedom of association;
2. pay wages that meet the highest of (a) the legal minimum wage; (b) the prevailing wage in the industry in the country of production or where laundry services occur; or (c) a nonpoverty wage, defined by the bill as 110% of the federal poverty income threshold plus 20% either in wages or health benefits, and outside the U.S., a comparable wage and benefit level adjusted to reflect a country's level of economic development using a factor such as the World Bank's Gross National Income Per Capita Purchasing Power Index;
3. keep wage and hour records for each worker, including the

wage rate, deductions, and actual pay, provided an itemized wage statement with this information is given to workers;

4. working hours for hourly and quota-based employees that are the lesser of 48 hours per week or any other limit on regular hours allowed by the law of the country where the work is done, provided (a) there is at least one day off in every seven-day period, (b) there are holidays and vacations, and (c) overtime is voluntary;
5. keep policies against employment discrimination on the basis of gender, race, religion, age, disability, sexual orientation, nationality, political opinion, or social or ethnic origin with regard to hiring, salary, benefits, advancement, discipline, termination, and retirement;
6. keep policies against sexual, psychological, or verbal harassment, or abuse, or corporal punishment;
7. keep policies against forced use of contraceptives or forced pregnancy tests;
8. keep policies against termination of employees without just cause (*i.e.* at-will employment) and a mediation or grievance process to resolve workplace disputes provided, for establishments in the United States, such disputes are limited to those not regulated by the National Labor Relations Board; and
9. respect employees' rights to freedom of association and collective bargaining and not harass, intimidate, or retaliate against employees for exercising such rights.

NEW BIDDER REQUIREMENTS

Under the bill, bidders for state laundry service or merchandise contracts of \$5,000 or more (or those holding contracts that, when taken together, total more than \$5,000) must submit an affidavit including:

1. the names, addresses, and phone numbers of (a) each facility producing the merchandise or performing the laundry service and (b) principal officers at each facility;

2. the base hourly wage of nonsupervisory employees, the percentage of wages paid as health benefits, other benefits, regular paycheck deductions, normal working hours per day and week, actual working hours per day and week over the most recent three months, and any overtime policy;
3. a sworn statement that each facility involved in the contract, and any subcontractor, meets the requirements of the sweat-free code of conduct; and
4. any other information deemed necessary by the state agency or the constituent unit of higher education.

If the information provided changes during the period of the contract, the contractor must submit an updated affidavit. The affidavit information must be available to the public through a state agency or college or university website. The contractor must also submit annual public reports documenting its internal working-condition monitoring programs and their results, any available external audits, problems discovered, and any necessary corrective plans.

INDEPENDENT MONITORS

The bill requires the Department of Administrative Service (DAS) and each college or university to hire an independent nonprofit monitoring organization to monitor contractors. The monitor cannot be funded or controlled, even in part, by a corporation that produces merchandise or provides laundry services.

ADVISORY GROUPS

Under the bill, DAS and each college or university must establish a sweat-free procurement advisory group (SPAG) to provide input on the bill's implementation and enforcement. The DAS-established SPAG must:

1. receive and assess evidence of noncompliance by contractors and bidders from employees, labor organizations, governments, nongovernmental organizations, and human rights advocates;
2. advise on bidding guidelines, dissemination of information to employees, and collaboration with other entities;

3. advise on implementation of the sweat-free code of conduct in the procurement of merchandise and laundry services, and assess expanding the code to procurement of other products and services; and
4. explore efficient and cost-effective mechanisms for ensuring contractor compliance through consortiums with other states, cities, or public entities.

The DAS-established SPAG must meet at least quarterly and consist of:

1. advocates for garment and other workers experiencing sweatshop conditions;
2. representatives of state police officer, correction officer, and other labor unions whose members wear uniforms while on duty;
3. representatives of state agencies that employ uniformed personnel;
4. administrators responsible for implementing the bill's provisions; and
5. other interested parties as determined by the DAS commissioner.

Apparently, the DAS commissioner appoints members to the SPAG, although the bill does not explicitly say this. It also does not establish the number of advisory group members.

The bill requires each state college and university to establish an advisory group in accordance with the provision establishing the DAS advisory group, but it is not clear who appoints the members of each SPAG at the higher education institutions or who should be part of their groups.

FAILURE TO COMPLY WITH CODE OF CONDUCT

Under the bill, if the state or one of its colleges or universities determines that a contractor has failed to meet the sweat-free code of conduct standards, it must give the contractor written notice that it is not in compliance and describe the noncompliance and the response

requirements.

The contractor must respond in writing no later than 10 days after receiving the notice and either provide (1) evidence that it has satisfied all requirements, or (2) a detailed plan to correct the noncompliance that must at least include (a) paying employees back wages, (b) reinstating employees unlawfully dismissed, and (c) employee rights education for managers and employees.

The state, college, or university must develop a remediation plan to bring the contractor into compliance with the bill's provisions. The contractor must also pay for an audit to determine if it failed to meet the requirements and whether it corrected the situation.

Under the bill, if the contractor knowingly provides misinformation or refuses to remedy a failure to meet a requirement after written notification in a timely manner, the state may:

1. cancel a contract without notice or liability for unpaid contract amounts,
2. impose a penalty that is permitted by law or under the contract, and
3. remove the contractor from the qualified bidders list for state contracts for 360 days.

AGREEMENTS WITH LAUNDRY SERVICE UNIONS

If the state or any of its colleges and universities determines that timely and quality laundry services are likely to be jeopardized by labor-management conflict, the bill requires them to require laundry service contractors to enter into agreements with unions representing or seeking to represent their employees in order to ensure timely and quality laundry services. The bill does not provide criteria for the state or its colleges and universities to determine if timely and quality laundry services are likely to be in jeopardy. Such agreements must prohibit strikes, pickets, or other conduct that would disrupt services.

These agreements are enforceable through civil court action authorized under a federal law (29 USC 185) that permits either the union or management to pursue enforcement in federal court. The federal law

allows a party to bring suit in U.S. courts regardless of the citizenship of the parties involved.

The bill explicitly states that it does not require an employer to recognize a particular union or enter into a collective bargaining agreement establishing terms and conditions of employment.

OTHER PROVISIONS

Waivers Through Union Contracts

The bill's provisions can only be waived through an express waiver included in a bona fide collective bargaining agreement.

Bill's Provisions and Other Applicable Law

The bill's procurement requirements are in addition to any applicable state procurement law for the state or any of its agencies.

COMMITTEE ACTION

Labor and Public Employees Committee

Joint Favorable Substitute Change of Reference

Yea 9 Nay 3

Government Administration and Elections Committee

Joint Favorable Substitute

Yea 13 Nay 7